

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

File No. 86278-001

v

John Alden Life Insurance Company
Respondent

Issued and entered
this 17th day of December 2007
by Ken Ross
Acting Commissioner

ORDER

I

PROCEDURAL BACKGROUND

On November 13, 2007, XXXXX, authorized representative of XXXXX, (Petitioner), filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* On November 15, 2007, after a preliminary review of the material submitted, the Commissioner accepted the request.

This case required review by a medical professional. Therefore, the Commissioner assigned it to an independent review organization (IRO) which sent its recommendation to the Commissioner on November 26, 2007

II

FACTUAL BACKGROUND

The Petitioner is covered under a small group policy underwritten by John Alden Life Insurance Company. On October 9, 2006, the Petitioner had a colonoscopy performed at XXXXX in XXXXX, Michigan. The procedure was performed under monitored anesthesia care by a certified registered nurse anesthetist (CRNA). John Alden approved coverage for the colonoscopy but

denied coverage for the separate anesthesia services.

The Petitioner appealed the denial through John Alden's internal grievance process. John Alden maintained its denial and issued a final adverse determination letter dated September 18, 2007.

III ISSUE

Was John Alden correct in denying coverage for the monitored anesthesia care provided during the Petitioner's colonoscopy on October 9, 2006?

IV ANALYSIS

Petitioner's Argument

The Petitioner believes it is improper for John Alden to deny coverage for the anesthesia service. The Petitioner's gastroenterologist supported the use of deep sedation with propofol which must be administered by an anesthesiologist or a CRNA. The Petitioner believes John Alden should provide coverage since her surgeon recommended the anesthesia.

Respondent's Argument

In its final adverse determination, John Alden defended its decision to deny coverage for the anesthesia in this way:

Sedation and analgesia are medically appropriate for endoscopic procedures. Conscious sedation is part of the endoscopy service that the gastroenterologist provides to the patient. Conscious sedation provides the necessary relief of pain and anxiety. The selection of propofol for anesthesia is in excess of that level of care necessary to provide safe, adequate and appropriate treatment, and is not medically necessary as defined in the policy. * * * There is no documentation of a medical condition that would establish medical necessity for the services of an anesthesiologist or anesthetist.

John Alden asserts that its denial of the separate anesthesia charge was appropriate.

Commissioner's Review

In determining whether John Alden's denial should be upheld or reversed, the Commissioner looks first to the terms of the Petitioner's policy. The policy covers only those medical procedures, services, and supplies which are medically necessary. The policy defines "medically necessary" as:

A service or supply that We determine, at Our discretion, to be:

1. necessary for the symptoms and diagnosis or treatment of the Illness or Injury;
2. provided for the diagnosis, or the direct care and treatment, of the Illness or Injury;
3. in accordance with generally accepted medical practice;
4. not in excess of that level of care that is needed to provide safe, adequate and appropriate diagnosis or medical treatment;
5. not for convenience purposes. . . ;
6. the most appropriate level of medical care the Insured Person needs;
7. furnished within the framework of generally accepted methods of medical management currently used in the United States;
8. not Experimental or Investigational. . . ; and
9. not for Maintenance Care. . . .

The fact that a Physician prescribes, orders, recommends or approves the care, the level of care or the length of time care is to be received, does not make the services Medically Necessary.

Since this appeal involves a question of medical necessity, the Commissioner obtained an analysis and recommendation from an IRO as required by section 11(6) of PRIRA. The IRO reviewer for this case is a physician in active practice who is board certified in anesthesiology. The IRO reviewer determined that the anesthesia services the Petitioner received on October 9, 2006, were not medically necessary for the treatment of her condition.

The IRO reviewer said that the member had no cardiac or pulmonary abnormalities and would not have been considered a high risk patient. The IRO report notes that the anesthesia the Petitioner received was propofol. The IRO reviewer explained that it was not medically necessary for an anesthesiologist or CRNA to be present for monitored anesthesia care and administration of propofol during this procedure.

The reviewer also explained the standard of care is for the endoscopy nurse to monitor vital signs and to administer sedation and analgesia under the guidance and supervision of the gastroenterologist or surgeon. The IRO reviewer indicated that when there is no significant comorbid condition requiring an American Society of Anesthesiologists status of 3 or higher, anesthesia services in addition to those provided by the gastroenterologist and endoscopy nurse are not medically necessary.

The Commissioner is not required in all instances to accept the IRO's recommendation. However, the IRO recommendation is afforded deference by the Commissioner. The IRO analysis is based on extensive expertise and professional judgment and the Commissioner can discern no reason why the recommendation should be rejected in this case. The Commissioner accepts the conclusion of the IRO that the anesthesia services in question were not medically necessary, and finds the services were therefore not a covered benefit under the Petitioner's policy.

V ORDER

The Commissioner upholds John Alden Life Insurance Company's September 18, 2007, adverse determination. John Alden is not responsible for coverage of the monitored anesthesia care provided on October 9, 2006.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County.

A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.

